

# **TIPS FOR TESTIFYING IN FEDERAL COURT**

*United States Department of Justice*

1. A neat and clean appearance is very important for court. You should be comfortable, yet appropriately dressed for court (i.e., no hats, shorts, etc.). Avoid distracting mannerisms such as chewing gum.
2. Jurors who are, or will be, sitting on the case in which you are a witness may be present in the same public areas as you. For that reason, you should not discuss the case with anyone. Remember, too, that jurors may have the opportunity to observe how you act outside of the courtroom. If you see a juror, you are not allowed to speak to the juror, even to say hello.
3. When you are called to testify, you will first be sworn in. When you take the oath, pay attention to the clerk, and say "I do" clearly.
4. When a witness gives testimony, he/she is first asked some questions by the lawyer calling him or her to the stand; in your case, this is an Assistant United States Attorney. This is called the "direct examination." Then, the witness is questioned by the opposing lawyer (the defense counsel) in "cross examination." (Sometimes the process is repeated two or three times to help clear up any confusion.) The basic purpose of direct examination is for you to tell the judge and jury what you know about the case. The basic purpose of cross examination is to explore the accuracy of your testimony. Don't get mad if you feel you are being doubted in cross examination. **DO NOT LOSE YOUR TEMPER.** An angry or impolite witness will probably not be believed. Always be polite and courteous.
5. An "objection" is a legal term that means one of the attorneys feels you are being asked an improper kind of question. When you hear a lawyer say "objection," simply stop speaking and wait for the judge to rule on the objection. If the judge decides the question is proper, he/she will "overrule" the objection. If the judge decides the question is not proper, he/she will "sustain" the objection. You will be told either by the judge or the attorney whether to answer that question or another question. Whenever you are asked a question, listen to the whole question before you start to answer. Make sure you understand the question and then give your answer. If you do not understand the question or if you want it repeated, say so.
6. A "sidebar" is when the judge and the attorneys meet at the judge's bench to discuss various matters, including technical disputes over the Federal Rules of Evidence. They meet at the judge's bench so the jury cannot hear their discussion.
7. Before you testify, try to picture the scene, the objects there, the distances, and exactly what happened so that you can recall the facts more accurately when you are asked. If the question is about distances or time, and if your answer is only an estimate, be sure you say it is only an estimate. Beware of suggestions by attorneys as to distances or times when you do not recall the actual time or distance. Do not agree with their estimate unless you independently arrive at the same estimate.
8. Speak in your own words. Don't try to memorize what you are going to say. Doing so will make your testimony sound rehearsed and unconvincing. Instead, be yourself, and prior to trial go over in your own mind those matters about which you will be questioned.
9. Most important of all, you are sworn to tell the truth. Tell it. Every true fact should be readily admitted. Do not stop to figure out whether your answer will help or hurt either side. As a witness you are expected to be an impartial spokesperson for the facts as you know them.
10. Try to answer questions by stating what you saw or heard. You should not give an opinion unless you are asked to do so. You should not say what somebody else saw or heard unless you are asked.
11. Give positive, definite answers when at all possible. Avoid saying, "I think," "I believe," or "In my opinion," if you can be positive. If you do know, say so. Don't make up an answer. Be positive about things which you remember. If you are asked about details which you do not remember, simply say you don't remember.

12. You should answer only the questions asked and not volunteer information.
13. Unless you are sure, don't say "that's all of the conversation," or "nothing else happened". Instead, say "that's all I recall," or "that's all I remember happening". It is possible that after more thought or another question, you will remember something important.
14. The court reporter must be able to hear all your answers, so please don't nod your head for a "yes" or "no" answer. Speak loudly and clearly. Also, you will sound best if you don't use words like "yah", "nope", and "uh-huh".
15. When you answer a question, you may find it easiest to simply look at the person who asked the question. Use the same tone and effort when answering questions from both sides.
16. Do not exaggerate. Don't make overly broad statements that you may have to correct. Be particularly careful in responding to a question that begins, "Wouldn't you agree that ...?". The explanation should be in your own words. Do not allow an attorney to put words in your mouth.
17. Listen carefully to the questions you are asked. Understand the question, have it repeated if necessary, then give your answer.
18. If your answer was not correctly stated, correct it immediately. If your answer was not clear, clarify it immediately. It is better to correct a mistake yourself than to have the attorney discover an error in your testimony. If you realize you have answered incorrectly, say, "May I correct something I said earlier?"
19. Sometimes, witnesses give inconsistent testimony--something they said before doesn't agree with something they said later. If this happens to you, don't get flustered. Just explain honestly why you were mistaken. The jury, like the rest of us, understands that people make honest mistakes.
20. Sometimes an attorney may ask if you have talked to anybody about the case. It is perfectly proper for you to have talked to people before you testified, and you should, of course, respond truthfully to this question.
21. After you have completed testifying, you should not tell other witnesses what was said during your testimony until after the case is completed. Thus, do not ask other witnesses about their testimony and do not volunteer information about your own. Once you have been formally excused as a witness, you are free to go. Remember to fill out the witness voucher so you may be reimbursed.

**REMEMBER TO ARRIVE AT THE COURTHOUSE AT THE DESIGNATED TIMES SO THAT YOU WILL HAVE A CHANCE TO TALK ABOUT THE TRIAL WITH THE ATTORNEY AND/OR INVESTIGATOR.**

PLEASE LET US KNOW OF ANY CHANGE IN YOUR ADDRESS OR TELEPHONE NUMBER SO WE CAN REACH YOU.

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